

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

PAUL CAIN,

Plaintiff,

v.

No. 24-cv-0121-MLG-SCY

WESTERN NEW MEXICO CORRECTIONAL FACILITY,

Defendant.

ORDER GRANTING EXTENSION AND *IN FORMA PAUPERIS* RELIEF

This matter is before the Court on Plaintiff’s Motion for Leave to Proceed *In Forma Pauperis* (Doc. 8) (IFP Motion). Also before the Court is his Motion for Extension of Time to File a Civil Rights Complaint (Doc. 7) (Motion to Extend). Plaintiff is incarcerated and proceeding *pro se*. His financial information reflects he is unable to prepay the \$405.00 filing fee for his prisoner civil rights complaint. The Court will therefore grant the Motion, which reduces the fee to \$350.00, and allow Plaintiff to pay in installments. *See* 28 U.S.C. § 1915(b). Plaintiff must make an initial partial payment of “20 percent of the greater of ...[his] average monthly deposits ... or (B) the average monthly balance” for the six-month period immediately preceding this action. *Id.*

Plaintiff’s financial statement reflects his average deposits (\$26.40) exceed his average monthly balance. *See* Doc. 9. The Court will assess an initial partial payment of \$5.28 (which is 20% of the average deposits) pursuant to § 1915(b)(1). Plaintiff must submit the initial payment within thirty (30) days of entry of this Order. After payment of the initial partial fee, Plaintiff is “required to make monthly payments of 20 percent of the preceding month’s income credited to

the prisoner's account." 28 U.S.C. § 1915(b)(2). The Court will generally not address the merits of Plaintiff's claims unless the initial partial payment is paid.

With respect to the Motion to Extend, Plaintiff seeks additional time to file a formal 42 U.S.C. § 1983 complaint. *See* Doc. 7. The Court directed him to file the complaint because his opening letter-pleading (Doc. 1) does not name Defendants or raise any specific claims. As grounds for the extension, Plaintiff explains he may elect to dismiss this case without prejudice, depending on the outcome of certain state court proceedings, and he needs additional time to prepare a federal pleading. The Court will grant the Motion to Extend and permit Plaintiff to file a formal complaint within thirty (30) days of entry of this Order. If Plaintiff fails to timely comply with both directives in this Order (*i.e.*, pay the initial partial payment and file a formal 42 U.S.C. § 1983 complaint), the Court may dismiss this case without further notice.

IT IS ORDERED that Plaintiff's Motion for Leave to Proceed *In Forma Pauperis* (**Doc. 8**) is **GRANTED**;

IT IS FURTHER ORDERED that within thirty (30) days from entry of this order, Plaintiff shall send to the Clerk an initial partial payment of **\$5.28**;

IT IS FURTHER ORDERED that the Clerk is directed to provide Plaintiff with two copies of this order, and that Plaintiff make the necessary arrangements to attach one copy of this order to the check in the amount of the initial partial payment;

IT IS FURTHER ORDERED that, after payment of the initial partial fee, Plaintiff make monthly payments of twenty percent (20%) of the preceding month's income credited to his account or show cause why the designated payments should be excused.

IT IS FINALLY ORDERED that Plaintiff's Motion for Extension of Time to File a

Civil Rights Complaint (**Doc. 7**) is **GRANTED**; and Plaintiff shall file a formal complaint within thirty (30) days of entry of this Order.


UNITED STATES MAGISTRATE JUDGE